



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2014 REGULAR SESSION

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HOUSE BILL NO. 367

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THURSDAY, MARCH 13, 2014

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The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED  
DATE April 2, 2014  
4:25pm

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ALISON LUNDERGAN GRIMES  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Allen

1 AN ACT relating to nonpartisan elections.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 83A.045 is amended to read as follows:

4 (1) Except as provided in KRS 83A.047, partisan elections of city officers shall be  
5 governed by the following provisions, regardless of the form of government or  
6 classification of the city:

7 (a) A candidate for party nomination to city office shall file his or her nomination  
8 papers with the county clerk of the county not earlier than the first Wednesday  
9 after the first Monday in November of the year preceding the year in which the  
10 office will appear on the ballot and not later than the last Tuesday in January  
11 before the day fixed by KRS Chapter 118 for holding a primary election for  
12 the office sought. Signatures for nomination papers shall not be affixed on the  
13 document to be filed prior to the first Wednesday after the first Monday in  
14 November of the year preceding the year in which the office will appear on  
15 the ballot. All nomination papers shall be filed no later than 4 p.m. local time  
16 when filed on the last day on which the papers are permitted to be filed.

17 (b) An independent candidate for nomination to city office shall not participate in  
18 a primary, but shall file his or her nomination papers with the county clerk of  
19 the county not earlier than the first Wednesday after the first Monday in  
20 November of the year preceding the year in which the office will appear on  
21 the ballot and not later than the second Tuesday in August before the day fixed  
22 by KRS Chapter 118 for holding a regular election for the office. Signatures  
23 for nomination papers shall not be affixed on the document to be filed prior to  
24 the first Wednesday after the first Monday in November of the year preceding  
25 the year in which the office will appear on the ballot. All nomination papers  
26 shall be filed no later than 4 p.m. local time when filed on the last day on  
27 which the papers are permitted to be filed.

1 (c) A candidate for city office who is defeated in a partisan primary election shall  
2 be ineligible as a candidate for the same office in the regular election.  
3 However, if a vacancy occurs in the party nomination for which he or she was  
4 an unsuccessful candidate in the primary, his or her name may be placed on  
5 the voting machines for the regular election as a candidate of that party if he  
6 or she has been duly made the party nominee after the vacancy occurs, as  
7 provided in KRS 118.105.

8 (2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be  
9 governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions,  
10 regardless of the form of government or classification of the city:

11 (a) A candidate for city office shall file his or her nomination papers with the  
12 county clerk of the county not earlier than the first Wednesday after the first  
13 Monday in November of the year preceding the year in which the office will  
14 appear on the ballot and not later than the last Tuesday in January before the  
15 day fixed by KRS Chapter 118 for holding a primary for nominations for the  
16 office. Signatures for nomination papers shall not be affixed on the document  
17 to be filed prior to the first Wednesday after the first Monday in November of  
18 the year preceding the year in which the office will appear on the ballot. All  
19 nomination papers shall be filed no later than 4 p.m. local time when filed on  
20 the last day on which the papers are permitted to be filed;

21 (b) Any city of the fourth to sixth class may by ordinance provide that the  
22 nomination and election of candidates for city office in a nonpartisan election  
23 shall be conducted pursuant to the provisions of this subsection:

24 1. A city may forgo conducting a nonpartisan primary election for the  
25 nomination of candidates to city office, regardless of the number of  
26 candidates running for each office, and require all candidates to file their  
27 nomination papers with the county clerk of the county not earlier than

the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August before the day fixed by KRS Chapter 118 for holding a regular election for the office. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.
3. If a city does not conduct a primary pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121.
4. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected.
5. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.
6. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled by write-in voting.

7. At the regular election, the voters shall be instructed to vote for one (1) candidate, except when there is more than one (1) candidate for which voters may vote, the instruction "vote for up to .... candidates" shall be

1                   used on the ballot.

2           (c) A candidate for city office who is defeated in a nonpartisan primary election  
3               shall be ineligible as a candidate for the same office in the regular election.

4           ➔Section 2. KRS 83A.170 is amended to read as follows:

5    (1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required  
6       nonpartisan city elections, or in any city of the second class operating under the city  
7       manager form of government pursuant to KRS 83A.150, no person shall be elected  
8       to city office except as provided in this section or as otherwise provided in this  
9       chapter relating to nonpartisan elections.

10   (2) No person shall be elected to city office without being nominated in the manner  
11       provided in this section at a nonpartisan primary to be held at the time prescribed by  
12       KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan  
13       primaries shall be conducted by the same officers, chosen and acting in the same  
14       manner, with the same rights and duties as in regular elections.

15   (3) Each applicant for nomination shall, not earlier than the first Wednesday after the  
16       first Monday in November of the year preceding the year in which the office will  
17       appear on the ballot and not later than the last date prescribed by the election law  
18       generally for filing notification and declaration forms with the county clerk as  
19       provided in KRS 83A.047, file a petition of nomination, which shall be in the form  
20       prescribed by the State Board of Elections signed by at least two (2) registered  
21       voters in the city. Each voter may sign individual petitions equal to the number of  
22       offices to be filled. If a voter signs petitions for more candidates than he or she is  
23       authorized, he or she shall be counted as a petitioner for the candidate whose  
24       petition is filed first.

25   (4) The county clerk shall examine the petition of each candidate to determine whether  
26       it is regular on its face. If there is an error, the county clerk shall notify the  
27       candidate by certified mail within twenty-four (24) hours of filing.

- 1 (5) Immediately upon expiration of the time for filing petitions, the county clerk shall  
2 have published in accordance with KRS Chapter 424 the names of the applicants as  
3 they will appear before the voters at the primary.
- 4 (6) Subsection (5) of this section shall not apply if it appears, immediately upon  
5 expiration of the time for filing petitions, that there are not more than two (2)  
6 applicants for nomination for each city office to be filled, or, when the nominations  
7 are for city legislative body members in cities electing legislative body members at  
8 large, and there are no more than twice the number of applicants for nomination for  
9 the number of offices to be filled. In that case, the applicants for nomination shall  
10 thereby be nominated and no drawing for ballot position nor primary election shall  
11 be held for that office.
- 12 (7) The ballot position of a candidate shall not be changed after the ballot position has  
13 been designated by the county clerk.
- 14 (8) If, before the time of certification of candidates who will appear on the ballot, any  
15 candidate whose petition has been filed in the office of the county clerk dies or  
16 notifies the clerk in writing, signed and properly notarized, that he or she will not  
17 accept the nomination, the clerk shall not cause the candidate's name to be printed  
18 on the ballot.
- 19 (9) If, after the certification of candidates who will appear on the ballot, any candidate  
20 whose name appears thereon shall withdraw pursuant to KRS 118.212 or die:
- 21 (a) Neither the precinct election officers nor the county board of elections shall  
22 tabulate or record the votes cast for the candidate;
- 23 (b) The county clerk shall provide notices to the precinct election officers who  
24 shall see that a notice is conspicuously displayed at the polling place advising  
25 voters of the change, and that votes for the candidate shall not be tabulated or  
26 recorded. If the county clerk learns of the death or withdrawal at least five (5)  
27 days prior to the election and provides the notices required by this subsection

1 and the precinct officers fail to post the notices at the polling place, the  
 2 officers shall be guilty of a violation;

3 (c) In a primary, if there are only one (1) or two (2) remaining candidates on the  
 4 ballot for that office, following the withdrawal or death of the other candidate  
 5 or candidates, neither the precinct election officers nor the county board of  
 6 elections shall tabulate or record the votes for the remaining candidate or  
 7 candidates, and the officer with whom the remaining candidate or candidates  
 8 has filed his or her nomination papers shall immediately issue and file in his  
 9 or her office a certificate of nomination for that remaining candidate or  
 10 candidates and send a copy to the remaining candidate or candidates.

11 (10) Names of applicants for each nomination shall be placed before the voters of the  
 12 city. The voters shall be instructed to vote for one (1) candidate, except when  
 13 there is more than one (1) candidate for which voters may vote, the instruction  
 14 "vote for up to .... candidates" shall be used on the ballot. ~~[The voters shall be~~  
 15 ~~instructed to vote for one (1) candidate, except that they shall be instructed to vote~~  
 16 ~~for the number of legislative body members to be elected in cities nominating~~  
 17 ~~legislative body members at large.]~~ No party designation or emblem of any kind nor  
 18 any sign indicating any applicant's political belief or party affiliation shall be used.

19 (11) Persons qualified to vote at a regular election shall be qualified to vote at a  
 20 nonpartisan primary and the law applicable to challenges made at a regular election  
 21 shall be applicable to challenges made at a nonpartisan primary.

22 (12) Votes shall be counted as provided in general election laws, pursuant to KRS  
 23 Chapters 116 to 121, and the result shall be published as provided in KRS Chapter  
 24 424.

25 (13) The two (2) applicants receiving the highest number of votes for nomination for  
 26 each city office shall be nominated; or where the nominations are for city legislative  
 27 body members in cities electing legislative body members at large, there shall be

1 nominated the number of applicants receiving the highest number of votes equal to  
 2 twice the number of offices to be filled. If two (2) candidates are tied for the second  
 3 highest number of votes in a mayoral election, the names of those two (2)  
 4 candidates, plus the name of the candidate receiving the highest number of votes,  
 5 shall be placed upon the ballot.

6 (14) At the regular election following a nonpartisan primary, the names of the successful  
 7 nominees and candidates who have filed a petition of candidacy as provided in this  
 8 chapter to fill a vacancy shall be placed before the voters.

9 (15) The nominee or candidate receiving the greater number of votes cast for each city  
 10 office shall be elected.

11 (16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public  
 12 officers in the conduct of elections shall be applicable in all respects to nonpartisan city  
 13 elections, except no election officer or other person within a polling place shall tell or  
 14 indicate to a voter, by word of mouth or otherwise, the political affiliation of any  
 15 candidate for city office.

16 ➔Section 3. KRS 83A.100 is amended to read as follows:

17 (1) The legislative body of a city may by ordinance divide the city into the same  
 18 number of wards as the number of legislative body members. Wards shall be as  
 19 nearly equal in population as practicable and their boundaries shall be fixed by the  
 20 ordinance.

21 (2) The populations of wards shall be reviewed as necessary to insure that populations  
 22 are as nearly equal as practicable, but the populations of wards shall be reviewed for  
 23 equalization at least as often as each regular federal census.

24 (3) Wards may be abolished by repeal of the ordinance creating them. No creation,  
 25 alteration or abolition of wards shall occur within two hundred forty (240) days  
 26 preceding a regular election.

27 (4) If a city is divided into wards, legislative body members shall be nominated and



1 elected in the following manner:

2 (a) Members shall be elected in the regular November election at large, but each  
3 candidate shall reside in the ward he seeks to represent and shall be elected in  
4 such a manner that each ward is equally represented on the legislative body.  
5 The names shall be presented in the election to show for which ward each  
6 candidate is seeking election and voters shall be instructed to "vote for one  
7 candidate in each ward." The candidate receiving the highest number of votes  
8 cast in each ward shall be deemed to be elected from such ward.

9 (b) Persons seeking the nomination of a political party for the office of legislative  
10 body member where a primary election is required for the political party, shall  
11 be voted upon exclusively by the eligible voters of the ward in which the  
12 person resides and seeks to represent.

13 (c) Except as provided by paragraph (d) of this subsection, persons seeking  
14 nomination for the office of legislative body member in a nonpartisan  
15 election where a primary is conducted pursuant to Section 2 of this Act  
16 shall be voted upon at large by the voters of the city and the two (2)  
17 candidates receiving the highest number of votes cast in each ward shall be  
18 deemed to be nominated from that ward.

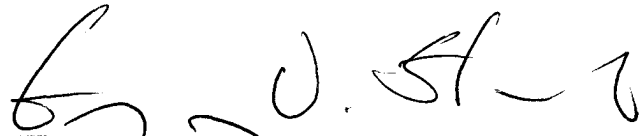
19 (d) The city may provide specifically in the ordinance required by subsection (1)  
20 of this section that persons seeking nomination for the office of legislative  
21 body member in a nonpartisan primary conducted pursuant to Section 2 of  
22 this Act shall be voted upon exclusively by the eligible voters of the ward in  
23 which the person resides and seeks to represent.

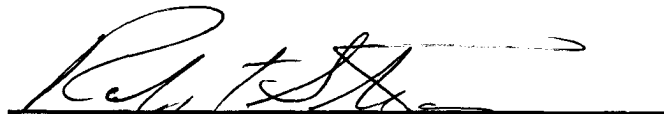
24 (5) Any city enacting or amending an ordinance to establish or abolish wards,  
25 modify ward boundaries, or to establish the manner of elections under subsection  
26 (4) of this section shall be completed within the time specified by subsection (3) of  
27 this section and the city shall forward a copy of the ordinance to the county clerk


1       *or county clerks of the county or counties in which the city is located.*


2       ➔Section 4. The following KRS section is repealed:

3       83A.110 Staggered terms for legislative body members.

  
\_\_\_\_\_  
Speaker-House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date 4/2/14